

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

BRIAN ANGOVE SMALE

§

V.

§

§

§

UNITED STATES OF AMERICA

§

CASE NO. 4:06CV6
(Judge Schneider/Judge Bush)

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Came on for consideration the Report of the United States Magistrate Judge in this action, this matter having been heretofore referred to United States Magistrate Judge Don D. Bush pursuant to 28 U.S.C. § 636. On March 12, 2007, the Report of the Magistrate Judge was entered containing his proposed findings of fact and recommendations that Defendant's Motion for Summary Judgment be GRANTED. This Court adopted the Report and Recommendation. However, on April 10, 2007, this Court withdrew the final judgment and granted Plaintiff an extension of time to object to the Report and Recommendation. On April 16, 2007, Plaintiff filed objections and on May 2, 2007, the United States responded.

The court, having made a *de novo* review of the objections raised by Plaintiff thereto, is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections of Plaintiff are without merit. Therefore, the court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of this court. It is, therefore,

ORDERED, ADJUDGED and DECREED that Defendant's Motion for Summary Judgment is GRANTED. If is further,

ORDERED, ADJUDGED and DECREED that the interplead funds in the registry of the court regarding this matter are hereby released to the United States. It is finally,

ORDERED that the clerk of the Court is authorized to issue payment of the interplead funds payable to the Internal Revenue Service through the United States' attorney of record, Joseph A. Pitzinger, U.S. Department of Justice, Tax Division, 717 N. Harwood, Suite 400, Dallas, Texas 75201.

IT IS SO ORDERED.

SIGNED this 4th day of June, 2007.

A handwritten signature in black ink, reading "Michael H. Schneider", written over a horizontal line.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE